LUTON ISLAMIC CENTRE

The Sunnah and the Orientalists: A Critical Examination of Joseph Schacht's theory

This article outlines the meaning and usage of the word *sunna*, explains Schacht's theory on the meaning of the *sunna*, analyses his sources and the examines validity of his arguments. Finally it looks at the implications that arise from Schacht's theory. The article draws extensively on M. Mustafa al-Azami's excellent book, *On Schacht's Origins of Muḥammadan Jurisprudence.*

Lexically, *sunna* refers to the "flow and continuity of a thing with ease and smoothness" (taken from Ansārī, 1972:259)[1]. This original usage of the word paved the way for Lane's definition; "a way, course, rule or manner, of acting or conduct of life or the like… whether good or bad; approved or disapproved…a way that has been instituted or pursued by former people, and has become one pursued by those after them" (taken from Zarabozo, 2000:8). Prior to Shāfi'ī, *sunna* was often used in its lexical sense for example: "the *sunna* of 'Umar, the *sunna* of Muslims,…the *sunna* of women" (Azami, 1996:32-33).

Bravemann defines *sunna* in juxtaposition to *sīra,* stating *sīra* means "the manner of proceeding…applied with respect to a certain affair", [whereas *sunna*] describes 'this manner of proceeding' as something which has been established, instituted (by a certain individual)" (1972:169).

In its technical sense, *sunna* has a number of different meanings. According to the *jurists*, the *sunna* is a recommended act, also commonly known as *mandūb*. Hence an act of the Prophet which was either obligatory upon the Muslim, or permissible, would not be '*sunna*' according to the jurists.

According to the *scholars of ḥadīth*, *sunna* is "what has been passed down from the Prophet , peace be upon him, of his statements, actions, tacit approvals, manners, physical characteristics, or biography, regardless of whether it was before he was sent as a prophet or afterwards" (Zarabozo, 2000:15).

The definition that interests us for the purpose of this essay is that given by *legal theorists*, which is: the statements, actions, and tacit approvals of the Prophet, after he received revelation, but not including the Qur'ān .This definition which excludes the Prophet's physical characteristics and biography, is alluded to in the *ḥadīth*: "whoever avoids my *sunna* is not from me". The *sunna*, according to this definition is a source of Islamic law, equal to that of the Qur'ān with regard to rulings and obligatory to follow. The Prophet said: "I am leaving you two things, if you stick to them, you will never go astray, the Book of Allah, and the *sunna* of His Prophet[2]"

Any discussion about the meaning and usage of the word *sunna* is not complete until we discuss the relationship between the word *ḥadīth* and *sunna*. Azami defines *ḥadīth* as "narrations about or from the Prophet" (1977: 3). Some

[1] This article uses the Havard APA system for referencing and bibliography. For example, in this particular reference, we look for Ansari in the bibliography; there are four works mentioned. We then look for the work dated 1972 which is:
Ansārī, Zafar 'Ishāq. (1972). "Islamic Juristic Terminology before Šafi'i: A Semantic Analysis with Special Reference to Kūfa". Arabica, 19, 255-300.

[2] Reported by Malik.

consider the word *sunna* synonymous with *ḥadīth*.. However Ḥasan holds that the two are different in that:

> "*ḥadīth* is the narration of the behaviour of the Prophet, while *sunna* is the law deduced from this narration. In other words, *ḥadīth* is the 'carrier' and 'vehicle' of the *sunna*…it has been well said that a certain *ḥadīth* contains five *sunnas*" (1968:48).

However, only those *ḥadīth* that meet the strict requirements for authenticity can be considered as conveying a *sunna*.

This synonymous use of the *ḥadīth* and *sunna*, occurred after the time when '*ḥadīth*' had become restricted exclusively to the narrations of the Prophet, and '*sunna*' likewise was restricted to the practice of the Prophet (Kamali, 2003: 61). Prior to Shāfi'ī, the words *ḥadīth* and *sunna* were not always used interchangeably. For Mālik, the *sunna* was established on the basis of the practice (or'*amal*) of the people of Madinah with the caveat that the *'amal* was accepted by the scholars of Madinah (Ansārī, 1991: 490).
Joseph Schacht was an orientalist writer who originated from Holland. His two works; *'An introduction to Islamic Law'* and '*The origins of Muḥammadan Jurisprudence'* are considered by many orientalists to be the most important works on Islamic Jurisprudence in the 20th century.

Schacht believes that the 'ancient schools of law' developed in the first few decades of the second century after *Hijrah* (1982: 28). These ancient schools were located in Iraq (Kūfa and Basra), Hijaz (Madinah and Makkah) and Syria (1982: 28). Of these, the schools of Madinah and Kūfa, being identified with Mālik, and Abū Hanīfa respectively, were the most important. Mālik took much of his *fiqh*, albeit indirectly, from the seven jurists of Madinah (Dutton, 2002:13). Abū Yūsuf (d182H) and Muḥammad al-Shaybānī (d185H) were two of the famous Kūfan students of Abū Ḥanīfa (d150H).

Schacht believes that "the early concept of *sunna* was that of the customary or generally agreed upon practice, what he calls the 'living tradition' " (Azami, 1996: 36) which coincided "with the accepted doctrine of the school" (Azami, 1996: 67). The early concept of *sunna* had no connection at all with the Prophet. The 'living tradition' was a mixture of foreign legal elements and local practices, which had been Islamicized, and termed '*sunna*' (Masud, 1995:10).

These ancient schools of law were opposed by a group of traditionalists who fabricated *ḥadīth* to support their doctrines (Azami, 1996:2). The ancient schools of law, despite their strong resistance to *ḥadīth* were unable to counter them, so they responded with their own fabrications. They projected the living tradition back to "great figures of the past" (Azami, 1992:251), such as senior Successors, and later on to the Companions. Eventually the living tradition was projected 'back into the mouth of the Prophet' (Azami, 1996:2 and 37). These ancient schools merely "renamed their living tradition… and called it the *sunna* of the Prophet" (Azami, 1996:104). The concept of the '*sunna* of the Prophet' was thus a later invention, introduced by the Iraqi scholars "towards the end of the first century" (Azami, 1996: 29). Hence there was a shift in the meaning of '*sunna* from 'living tradition', unrelated to the Prophet, to the traditions of the Prophet, the latter being all fabrications (Dutton, 2002: 172).

Schacht accepts that '*sunna*' *was* used shortly after the Prophet, but it referred to the practice of the first two caliphs, "providing a doctrinal link between the *sunna* of Abū Bakr and 'Umar and the Ḳoran" (1982: 125) and only later on was it applied to the 'practice of the Prophet (Bravemann, 1972: 125). Hence its initial use was political and not legal.

Schacht asserts that there is no evidence of any *ḥadīth* relating to Islamic law in the first century (Esposito, 1998: 81) and any Prophetic *ḥadīth* regarding Islamic law must therefore have been fabricated. He limits 'Islamic law' to civil and criminal law ignoring rules relating to ritual worship within the definition (Maghen, 2003:296). Given that Schacht acknowledged that many rules relating to ritual worship were derived from the Qur'ān from the beginning (Dutton, 1991: 1), to include ritual worship within the definition of Islamic law would demolish his theory that Islamic law was non existent in the first century.

To prove his claim that "the early concept of *sunna* was that of the customary or generally agreed upon practice" (Azami, 1996: 36) which was unconnected in anyway with the Prophet, Schacht uses the works of Margoliouth, Ibn al-Muqaffa' and works from the Medinese, Syrian and Iraqi schools.

He states that "Margoliouth has concluded that *sunna* as a principle of law meant originally the ideal or normative usage of the community and only later acquired the restricted meaning of the precedents set by the Prophet" (taken from Azami, 1996: 37). However the majority of references he takes from Margoliouth in fact refer to the *sunna* of the Prophet, thus contradicting the position of Margoliouth and hence Schacht.

An example used by Margoliouth is: "The letter of 'Uthmān to Meccan in 35 A.H. [in which 'Uthmān states] 'The good norm [*sunna*] which has been initiated by the Prophet and (then) the two Caliphs after him' " (taken from Azami, 1996: 38). 'Uthmān, who died in the early part of the first century, describes this 'good *sunna*' as originating from the Prophet, as well as the two Caliphs after him. This disproves Schacht's contention that, in the first century, the '*sunna*' had no connection with the Prophet. Although Margoliouth argues that the '*sunna*' was a only vague term referring to something customary, it is clear from the context in which the word is used, that it in fact refers to something specific, namely the practice of the Prophet (Azami, 1996:40).

In addition, most of the examples quoted by Schacht, date back to the "the first half of the first century (Azami, 1996: 37) contradicting his thesis that the ascription of *sunna* to the Prophet was an invention of the second century.

From the writings Ibn al-Muqaffa', Schacht concludes that he believed that the *sunna* was based on the "administrative regulations of the Ummaiyyad (sic) government" (taken from Azami, 1996: 41), and hence it was unconnected with the *sunna* of the Prophet. However his writings show the opposite of Schacht's claims. Ibn al-Muqaffa' criticises those who shed blood using the *sunna* as justification. He complains that the *sunna* they refer to is not the way of the Prophet, but rather, it is the *'sunna'* of one of the 'Umayyad governors (taken from Azami, 1996: 42). It is clear that he believes that the only *sunna* to be followed should be that of the Prophet (or the rightly guided Caliphs) and not the decision of an Umayyad governor. In an even clearer example, Ibn al-Muqaffa' states that "the caliph should attend carefully to seeing that they [the army] learn the Book [of God] and acquire knowledge of the *sunna*" (taken from Azami, 1996: 41).

With regards to the Medinese school, Schacht brings five examples from the works of Mālik and his students to show that their understanding of the '*sunna*' was "the 'practice' or 'living tradition' of the school" (Azami, 1996: 43) and not the traditions of the Prophet. For example, Schacht brings the following quote from Sahnūn's *Mudawwana:*

> "Mālik said: *Maghrib* and *'Ishā* prayers can be prayed together while in the city, even if there is no rain but on condition that there is mud and darkness, and they can also be prayed together if there is rain.
> Ibn Wahb reported…[that] Ibn Qusait reported to him that praying *Maghrib* and *'Ishā* together in Medina on rainy nights is *sunna*. [The Caliphs] Abū Bakr, 'Umar, and 'Uthmān all prayed accordingly.
> Ibn Wahb said 'This was the doctrine of 'Abdulla b 'Umar, S'aīd b. Musayyib, al-Qāsim, Sālim, 'Urwa b. Zubair, 'Umar b, Abdul 'Azīz', Yahyā' b. S'aīd, Rabī'a and 'Abūl Aswad. Sahnūn said: And the Prophet also prayed them together" (taken from Azami, 1996: 49).

Schacht intends to use this quote to make two points; firstly that Mālik ignored the two traditions transmitted by Ibn Wahb. Secondly, Sahnūn had quoted the traditions of Ibn Wahb and the practice of the four Caliphs and senior Successors, demonstrating that he considered the *sunna* to be nothing more than the practice of the people of Madinah (Azami, 1996: 49).

However, Mālik in his *Muwatt□a'* "reports … that the Prophet prayed *Zuhr* and *'Asr* as well as *Maghrib* and *'Ishā'* together without being in any fear of war or on a journey (taken from Azami, 1996: 49-50).

Hence the action of joining prayers due to rain (or other causes) is a *sunna* according to Mālik based upon the above *hadīth*. Sahnūn also quotes a Prophetic *hadīth* to support his claim but Schacht fails to mention either Mālik's or Sahnūn's reference to the Prophetic *hadīth* (Azami, 1996: 50). Hence this example used by Schacht is not valid as he excludes key information in his argument. When the relevant quotes from the *Muwatt□a'* and the *Mudawwana* are given, they not only falsify Schacht's claim, but prove the opposite, namely that the *sunna* according to Mālik was a clearly defined concept; the practice of the Prophet.

There are instances where Mālik relates a *hadīth*, but then states that he follows the *'amal*, which is in contradiction to the *hadīth* (Dutton, 2002: 49). An example of this is the *hadīth* pertaining to the right to withdraw from a sale while the two parties are still together. Mālik responds to this *hadīth* by saying that there is no "established practice [of the people of Madinah] regarding it" (taken from Dutton, 2002: 49). Mālik took this position because he considered the *'amal* of the people of Madinah *as the best indicator of the sunna of the Prophet*, and not because he rejected the concept of the *sunna*. In cases where *'amal* and *hadīth* conflicted, *'amal* took priority. In his letter to al- Layth ibn Sa'd, Mālik states:

> "The Messenger of Allah, may Allah bless him and grant him peace, was living amongst them [people of Madinah] … He would tell them to do things and they would obey him, and he would institute *sunna*s for them and they would follow him…" (taken from Dutton, 2002: 37).

Mālik here, clearly derives the authority of the *'amal* of the people of Madinah from the Prophet himself due to the direct link between *'amal* and the practice of the Prophet.

Schacht argues that according to the Iraqi school, '*sunna*' meant established religious practice (Azami, 1996: 52) and not the practice of the Prophet. Rather than quote the Iraqi scholars directly, Schacht quotes a summary of the Iraqi position by Shāfi'ī, a critic of the Iraqi school (Azami, 1996: 52). It is more just, when critically analysing an author's work, to refer to it directly, rather than to refer to a summary produced by the author's opponent. The latter approach ruins any objectivity or fairness. Despite this inherently biased approach, Schacht's argument doesn't hold. He gives the example of the Iraqi statement attributed to

'Alī: "Pray four *rak'a* on the occasion of *'Īd* in the mosque. Two *rak'a* for the sake of the *sunna*, and two *rak'a* for not having gone outside the mosque to pray [as is normally done]" (taken from Azami, 1996: 53). Schacht concludes that the Iraqis refer to the *sunna* to support their argument, but they fail to bring any relevant *ḥadīth* (Azami, 1996: 53).

The claim that the 'two *rak'a* for the sake of the *sunna*' on *'Īd* was an 'established practice' unrelated to the Prophet (as no *ḥadīth* was mentioned to state otherwise), begs the question, who instituted the practice of the *'Īd* prayer (Azami, 1996: 53). I do not believe that even Schacht would argue that the *'Īd* prayer was an invention of the Iraqis, and later falsely attributed by them to the Prophet. Hence the example used by Schacht does not support his claim.

There are numerous examples which prove that the Iraqi and Medinese scholars gave over-riding importance to the *sunna*. Mālik said "…so thoroughly investigate my opinion, then take whatever agrees with the Book and the *sunna*, and reject whatever contradicts them" (taken from Phillips, 1990: 121). Abū Yūsuf in his introduction to Kitāb al-Khāraj quotes a number of *ḥadīth* which emphasis following the *sunna* of the Prophet (Farūqi, 1992:398). In *al-Radd 'alā Siyar al-Auzā'ī*, Abū Yūsuf uses the word '*ḥadīth*' 25 times, in 23 of these he refers to solely to the Prophet (Ansārī, 1972: 256).

When Abū Ḥanīfa was asked: "Why do you not raise you hands just before rukū' and after?" he replied: "there is no recorded word or action of the Messenger of God, may Allah grant him peace, to authenticate this" (taken from al-'Alwānī, 1993: 59). Although, in this example, Abū Ḥanīfa did not use the word '*sunna*', it is clear that he was alluding to its concept. Failure to find evidence of the terminological use of the concept of the *sunna* does not imply that the concept does not exist (Ansārī, 1972: 299). Although the word *sunna* appears in the Qur'ān sixteen times, nowhere does the Qur'ān mention the term '*sunna* of the Prophet' (Ansārī, 1972: 261-2). However over 50 verses allude to the concept of the *sunna* of the Prophet (Zarabozo, 2000:257).

Regarding the Syrian school (of Auzā'ī) Schacht holds that "the continuous practice of the Muslims is the decisive element, reference to the Prophet…is optional, but not necessary for establishing it" (taken from Azami, 1996: 64). Schacht brings fifty cases from Auzā'ī's treatise to prove his thesis. However only in 30% of cases does Auzā'ī refer to the continuous practice of the Muslims (Azami, 1996: 65). Hence it is incorrect to state 'the continuous practice of the Muslims is the decisive element'. Almost half of all cases make direct reference to Prophetic *ḥadīth*, refuting Schacht's assertion that 'reference to the Prophet [is] optional' (Azami, 1996: 65). Further evidence that Auzā'ī adhered to the *sunna* of the Prophet is provided by Farūqi who states that Auzā'ī held that "the opinion and actions of a *faqīh* must be in conformity with the *ḥadīth* and that the *faqīh* didn't have the option to apply any other method of reasoning when there was a clear *ḥadīth* available to him" (1992:399).

Schacht's explanations of the origins of 'practice' are confusing and contradictory. He argues that the "popular and administrative practices of the late Umayyad period was transformed into the religious law of Islam" (taken from (Maghen, 2003:283) by the official *qadis* who made judgements "basing themselves on customary practice which…incorporated administrative regulations and taking the letter and spirit of the kọranic regulations…into account" (taken from Maghen, 2003:282). The conclusion is not clear; the *sunna* is 'living tradition' derived from the practices of the *Umayyads* which in turn is based upon 'customary practice' which incorporates 'administrative regulations' and the 'letter and spirit of kọranic regulations'. Furthermore, the latter statement is then contradicted by

Schacht's assertion that "…the ancient schools of law…took the kọranic norms seriously *for the first time* [i]n contrast with what had been the case in the first century of Islam…" (Maghen, 2003:285). Either the first century *qadis* were basing their judgments on Qur'ānic regulations, (which also contradicts his belief that Islamic law did not exist in the first century) (Maghen, 2003:285), or the Qur'ān as a source of legislation was only used in the second century. Both cannot be true.

We will now examine the evidence presented by Schacht for his assertion that the ancient schools of law initially resisted the authority of the *hạdīth*. Schacht brings certain principles that he claims, were used by the ancient schools, to disparage *hạdīth*. We have already shown that the schools of Madinah and Iraq gave utmost priority to *hạdīth*, and hence the *sunna*, but they differed in the principles and rules used for accepting *hạdīth*. These principles were not used to disparage *hạdīth*, they were used as a criteria for the admissibility and authenticity of the *hạdīth*. Two examples will highlight this point.

Schacht lists eight means which the Medinese used to reject *hạdīth* (Azami, 1996: 80). Three out of eight means listed relate to the Medinese giving priority to narrations of the Companions over *hạdīth* from the Prophet (Azami, 1996: 80). However Mālik would doubt the authenticity of a *hạdīth* if a Companion was known to act in opposition to it. The Companions' practice was a criteria for authenticating *hạdīth* (Ansārī, 1991: 491-492) and not a means for rejecting *hạdīth.*

He also mentions eight rules that the Iraqis used to oppose *hạdīth* (taken from Azami, 1996: 86). One such rule is the rejection of any *hạdīth* that contradict the Qur'ān (taken from Azami, 1996: 87). However this is a principle used by Hanafī's in dealing with apparently contradictory texts. Abū Hạnīfa would reject a solitary *hạdīth* if it came into conflict with stronger evidence (such as an apparent verse of the Qur'ān) rather than to reconcile the two (Syamsuddin, 2001: 264). Solitary *hạdīth* could not specify the meaning of a Qur'ānic verse, as they were considered to be in contradiction to it. (Syamsuddin, 2001: 265). Hence in the case of a conflict, the solitary *hạdīth* was considered to be inauthentic.

The idea that the ancient schools of law resisted *hạdīth* also contradicts his '*el silento* principle'; "the best way of proving that a tradition did not exist at a certain time is to show that it was not used as a legal argument in a discussion which would have made reference to it imperative, if it had existed" (taken from Azami, 1996: 78). If the ancient schools of law were hostile to *hạdīth*, why would they quote them in legal arguments? (Azami, 1996: 78).

We will now discuss Schacht's assertion that having failed to resist the growing importance of *hạdīth*, the ancient schools of law projected the living tradition 'back into the mouth of the Prophet' (Azami, 1996:2 and 37).

Schacht claims that Auzā'ī gives the continuous practice of the Muslims the authority of the Prophet, irrespective of whether a Prophetic narration exists or not (Azami, 1996: 65). However on examining the fifty cases from Auzā'ī, that Schacht quotes, it is clear that Auzā'ī is very particular about referencing his sources. He clearly differentiates between the statements of the Prophet, that of the four rightly guided Caliphs, the practice of the Muslims, and his own opinion (Azami, 1996: 65). Hence Auzā'ī does not give the authority of the Prophet to the practice of the Muslims, rather he clearly differentiates between the two.

In addition, Abū Yūsuf agrees with Auzā'ī's authentication of the majority of *hạdīth* (Azami, 1996: 106). If Auzā'ī was projecting back the practice of the

Syrian school 'into the mouth of the Prophet', Abū Yūsuf would not have agreed with him on authenticity of these *ḥadīth* (Azami, 1996: 106) as they would merely represent the opinions of Auzā'ī (many of which Abū Yūsuf disputes).

However, Abū Yūsuf does dispute Auzā'ī's interpretation of these *ḥadīth*. If they had both agreed on the interpretation *and* the authenticity of the *ḥadīth*, the argument that they had both projected their living traditions back to the Prophet might have tenable, although how they would have independently fabricated the same *ḥadīth*, takes some stretch of the imagination (Azami, 1996: 106). The fact that they agreed on the authenticity, whilst differing on their interpretation, shows that the *ḥadīth* could not have originated from the practice of these two schools. They must have come far earlier, from the Prophet himself (Azami, 1996: 106).

The contention that the entire body of legal *ḥadīth* is fabricated can also be disproved from a number of angles:

Firstly that scholars from many opposing theological sects, agreed on a large body of legal *ḥadīth* (Azami, 1992:243). It is inconceivable that these various sects, while pronouncing their opponents to be heretics, or even disbelievers, would conspire with these same opponents to fabricate hundreds of *ḥadīth*.

Secondly even for scholars of the same theological persuasion, the task of fabrication on the scale the Schacht is suggesting would also be impossible. Azami mentions that often one tradition from the Prophet had, by the early part of the second century, dozens of narrators in over ten separate cities and even countries. With the rudimentary communication systems that existed at that time, the task of fabricating one *ḥadīth*, so that each narrator in each location reports it exactly (or to its nearest meaning), would be a momentous task. For these narrators, many of whom were widely known for their piety and integrity, to carry out this forgery for *all* legal *ḥadīth*, and without anyone noticing, or raising an objection is a ludicrous proposition (1992:230).

In fact, when Ahmed ibn Hanbal asked the Caliph to bring forward just one *ḥadīth* to support the claim that the Qur'ān was created, neither he, nor his scholars were able to do so (Azami, 1996: 2). Ḥadīth fabricators rarely went undetected. As Nabia Abbot stated: "Deliberate tampering with the either the contents or the *isnād's* of the Prophets traditions… may have passed undetected by ordinary transmitters, but not by the aggregate of the ever watchful, basically honest, and aggressively outspoken master traditionalists and *ḥadīth* critics" (taken from Siḍdīqī, 1993: 38).

Thirdly, there exist of a number of *ḥadīth* collections from the first century. One such book is the *Ṣaḥīfah of Hammām bin Munabbih*, a student of Abū Hurayrah. The book containing 138 *ḥadīth*, *with isnād* , was written in the early part of the first century (Hamidullah, 2003). There is also the *Musaṇnaf of 'Abd al-Razzāq al-Saṇ'ānī.*

To justify the thesis that all legal *ḥadīth* were fabricated, Schacht has to also prove that *isnād's* were also fabricated. He claims that *isnād's* were put together arbitrarily and carelessly, that over time *isnād's* were improved and completed, and that new and additional *isnād's* were added to strengthen solitary reports (Azami, 1996). However rather than using *ḥadīth* literature to critically examine *isnād's*, he relies on *sīra* and *fiqh* literature. To study the phenomena of *isnād* using *fiqh* and *sīra* literature inevitably leads to an incorrect conclusion as scholars of *fiqh* and *sīra* would often omit the *isnād* or part of the *isnād* for the sake of brevity and flow of text (Azami, 1996: 183).

Schacht's alleges that the Iraqi school of law projected the living tradition 'back into the mouth of the Prophet and that the concept of the '*sunna* of the Prophet' was a later invention, introduced by the Iraqi scholars "towards the end of the first century" (Azami, 1996: 29). To support these two hypotheses he refers to the case of a runaway slave who is recaptured by his master. Abū Yūsuf disagrees with Auzā'ī's view that the Imām could either behead or crucify the recaptured slave stating that "there is no executed *sunna* from the Prophet to this effect" (taken from Azami, 1996: 107). It is clear that Abū Yūsuf opposes Auzā'ī because Auzā'ī has no Prophetic *ḥadīth* (or 'executed *sunna*' as he puts it) to base his *fatwā* on. This in no way shows that the Iraqis had been the first to invent the concept of the *sunna*.

Given that according to Schacht, there were no legal traditions in the first century, and that also in 140H, it is known that Abū Ḥanīfa made "a clear statement about the overruling authority of the *sunna* of the Prophet" it follows that in the space of less than 40 years (from 100H to 140H) the following activities must have taken place: (Azami, 1992:252).

> "birth (and growth) of the ancient schools of law…projecting back of ideas to…higher authorities [Successors, then Companions]…projecting back to the Prophet as a last resort, birth of the opposition group (traditionalists), their fabrication of *ḥadīth*…[and their conflict] with the ancient schools...loss of ground by ancient schools and the establishment of the overruling authority of the *sunna*" (Azami, 1992:252-3).

Obviously, for all of these activities to have occurred in less than half a century is clearly untenable.

Schacht's argues that '*sunna*' initially referred to the practice of the first two caliphs, in the context of choosing a successor to 'Umar. Only later on did '*sunna*' refer to the practice of the Prophet, with '*sīra*' then being used to refer to the 'practice of the two caliphs (Bravemann, 1972: 125). However the narration of *al-Baladụrī* in *Ansāb al Asṛāf* concerning Uthmān's oath mentions that Uthmān swore to "act in accordance with the *sīra* of the Messenger (*bi sīrati Rasūli-llāhi*) *wa' Abī Bakrin wa 'Umara*" (taken from Bravemann, 1972: 125-6). The term '*bi sīrati Rasūli-llāhi*' refers specifically to the Prophet, and not the practice of the community (Bravemann, 1972: 129) showing Uthmān knew the concept of the *sunna* of the Prophet. Also it is significant that the practice of the Prophet was termed '*sīra*', and the term '*sunna*' was not used in this particular context, thus refuting Schacht's argument that the '*sunna*' provided "a doctrinal link between the *sunna* of Abū Bakr and 'Umar and the Koran" (taken from Bravemann, 1972: 128).

Braveman also refutes Schacht's claim that sunna originally referred to the custom of the community and only later came to mean the example of a single individual, i.e. the Prophet (1972: 151-5). He examines the word '*sanna*' (derived from s*unna*), and from a number of examples he shows that *sanna* is used in the context of a:

> "type of …practice…having been intentionally and consciously decreed and instituted by a *certain individual* [my italics].Accordingly the concept sunna originally…cannot have referred to the anonymous custom of the community" (1972: 155).

A number of implications arise from Schacht's false theory.

All legal traditions from the Prophet are fabricated. By extension all non legal *ḥadīth* (e.g. those pertaining to belief, exegesis, etc) are also likely to be fabricated. Hence there are no authentic books of ḥadīth.

As a corollary, the religious and legal practices of the Muslims have no connection whatsoever with the teachings of the Prophet

Third, the *sunna* is based on (as Schacht alludes to elsewhere), Hebrew and Roman laws (Maghen, 2003: 296-7).

Fourth, the scholars of this era were all dishonest, and had no qualms about lying against the Prophet. The sciences of *jarh wa ta'dīl*, *ilm ar-rijāl*, and the extensive journeying were merely a cover for this mass fabrication.

Fifth, the Companions did not consider the words and actions of the Prophet as legally binding (Ansārī, 1992:157).

Sixth, either the Prophet did not bother to ensure that the Companions preserved his *sunna*, or he did, but they failed to do so. The latter went undetected by the Prophet.
Seventh, from the death of the Prophet, up to the second century, there was a legal vacuum (Esposito, 1998:81), as no legal *ḥadīth* existed.

Seventh given that the sunna was not preserved, the Qur'ān orders us to do the impossible; to implement the numerous verses of that command us to follow and obey the Prophet.

When we examine the implications of Schachts theory, it is clear that this jewish orientalist who wrote *The origins of Muḥammadan Jurisprudence's,* a book replete with contradictions, overgeneralisations, arbitrary use of source material, unwarranted assumptions, mistake of facts, and misinterpretation of the meanings of texts quoted, did so in order to destroy the very edifice of Islam.

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